REMARKS

In the outstanding Office Action ("the Office Action"), mailed April 11, 2006, the Examiner rejected claims 40-95 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. By this amendment, Applicants have amended claims 40, 57, 62, and 79-95. No new matter has been added. Claims 40-95 remain pending in this application.

Based on the following remarks, Applicants respectfully traverse the rejections under 35 U.S.C. § 101 and request timely allowance of claims 40-95.

I.   Claim Rejections under 35 U.S.C. § 101

The Examiner rejects claims 40-95 under 35 U.S.C. § 101 because "the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is 'useful, tangible and concrete[']." Office Action at page 2. Indeed, the Examiner requests Applicants to include in the claims the "practical application," "the result," and "the final result that is concrete, useful and tangible." Office Action at page 3. Applicants respectfully submit the Office Action presents a misstatement of the requirements for patent subject matter eligibility set forth in the USPTO guidelines and related rules and case law. *See e.g.*, *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility* (hereinafter, "Guidelines"). As such, the rejection of claims 40-95 is legally deficient.

For example, the Office has the burden to expressly state how the language of the claims has been interpreted to support the rejection. *See* MPEP § 2106(II)(A). Here, the Office Action has failed to meet the burden of establishing that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract

ideas or does not produce a useful result, as it asserts. *See* MPEP § 2106(II)(A). As a result, the Office Action is unclear as to which claims this assertion is applicable and how such a standard is being applied. Indeed, the present application includes claims that are of differing scope. That is, the claims include "system[s]," "method[s]," and "computer-readable storage medium[s]" and, therefore, it is unclear how the rejection applies to the claims. Applicants respectfully submit that claims 40-95 are allowable because, *inter alia*, the claims clearly fall within the statutory subject matter defined by 35 U.S.C. § 101; namely, processes, machines, manufactures, and compositions of matter or, in the case of computer-related processes, the claims clearly are limited to a practical application. *See In re Alappat*, 33 F.3d 1526, 1543, 31 USPQ2d 1545, 1556-57; MPEP § 2106(IV)(B)(2)(b)(ii).

Further, the Examiner improperly implies *State Street* requires claims in general to be directed to a useful, tangible, and concrete result. Office Action at page 3 (citing *State Street*, 149 F.3d at 1373-74, USPQ2d at 1601-02). This analysis is improper. As noted in the Guidelines, a claimed process is statutory if it results in a physical transformation for which a practical application is either disclosed in the specification or would have been known to a skilled artisan or is limited to a practical application which produces a useful, tangible, and concrete result. Guidelines at page 33. As noted above, the Examiner has not indicated whether the USPTO deems the claims are abstract in nature and requiring a "practical application of an abstract idea" to produce a useful, tangible, and concrete result. Guidelines at 37 and 38 (citing *State Street*, 149 F.3d at 1373-74, USPQ2d at 1601-02).

In this case, Applicants' claims have practical application and do produce a useful, tangible, and concrete result. For instance, the claims provide a constraint used for ensuring type safe linkage which, as described in Applicants' specification, provide practical use in an environment that employs multiple runtime name spaces, user defined class loaders, and lazy loading of classes. *See e.g.*, Specification at page 4, line 6 to page 5, line 5. Further, a useful, tangible, and concrete result is produced in that, in one example, a constraint table entry is defined that ensures such type safe linkage. The Examiner, however, has not properly identified how Applicants' claims do not provide practical application of an idea that produces a useful, tangible, and concrete result. Instead, the Examiner merely presents a conclusion without substantive analysis or evidence to support the position which, as noted above and further explained below, is improper.

A. Claims 40-49

In the case of computer-related processes, in order for the subject matter to be statutory, the claimed process must be limited to a practical application. *See In re Alappat*, 33 F.3d 1526, 1543, 31 USPQ2d 1545, 1556-57; MPEP § 2106(IV)(B)(2)(b)(ii). A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible, and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible, and useful. *See* MPEP § 2106(IV)(B)(2)(b)(ii).

While Applicants do not subscribe to the characterizations presented by the Examiner in the Office Action, Applicants have amended claim 40 to specify that the constraint table entry is used for ensuring type safe linkage, and thus further define a

concrete, tangible, and useful result. Accordingly, the rejection of claims 40-49 is improper and should be withdrawn and the claims allowed.

B. Claims 50-56

As explained, the Office Action does not expressly state how the recitations of claims 50-56 have been interpreted to support the rejection. Nonetheless, "providing a cache that maps a class name and loader object to a class type," "providing a constraint table that maps the class name to one or more pairs of a class type and a set of loader objects," and "providing type safe linkage during execution of a process based on the cache and constraint table," as recited in claim 50, show a practical application of an idea. Moreover, "providing type safe linkage during execution of a process based on the cache and constraint table" is an example of a concrete, useful, and tangible result of that practical application.

Accordingly, the rejection of independent claim 50 and dependent claims 51-56 is improper and should be withdrawn and the claims allowed.

C. Claims 57-61

As the Examiner recognizes, a claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases, a claim to a specific machine or manufacture will have a practical application. Guidelines at page 38 (citing *In re Alappat*, 33 F.3d 1526, 1544, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994)).

In this case, claim 57 discloses a "system" comprising both a "processor" and "memory" which are directed towards the statutory subject matter of a "machine" as defined by 35 U.S.C. § 101. The Examiner, however, maintains that this claim lacks practical application without providing an explanation why the claimed system is

allegedly non-statutory. This is improper. Further, claim 57 recites a processor that executes instructions to ensure type safe linkage which, as explained, is a useful, tangible, and concrete result of the practical application of an idea.

Accordingly, the rejection of independent claim 57 and dependent claims 58-61 is improper and should be withdrawn and the claims allowed.

D. Claims 62-71

Claim 62 discloses a system comprising "means for creating an entry in a constraint table for a class name; means for creating a first entry in a loaded class cache (LCC) for the class name and a first loading object; means for creating a second entry in the LCC for the class name and a second loading object; and means for defining the constraint table entry based on the first and second entries in the LCC." First, it is noted that the Office Action has not met its burden to expressly state how the language of the claim can support the rejection. Second, Applicants respectfully submit that the elements recited in claim 62 perform functions similar to those of claim 40 which, as explained, are statutory. Accordingly, for at least the same reasons set forth above in connection with method claim 40 and system claim 57, claim 62 is directed towards statutory subject matter and thus allowable.

Accordingly, Applicants respectfully request that the rejection of independent claim 62 and dependent claims 63-71 be withdrawn and the claims allowed.

E. Claims 72-78

Claim 72 includes elements similar to those recited in claim 50. As explained, claim 50 is statutory under 35 U.S.C. § 101. For at least the same reasons set forth above in connection with claim 50, the rejection of claim 72 is improper. Accordingly,

the rejection of independent claim 72 and dependent claims 73-78 should be withdrawn

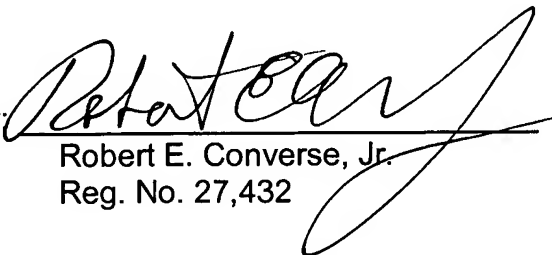and the claims allowed.

F. Claims 79-95

Although Applicants do not subscribe to the Office Action's characterization

of independent claim 79, Applicants have amended claims 79-95 to recite, "a

computer-readable storage medium," as suggested in the Office Action. In light of

the foregoing amendment, Applicants respectfully request withdrawal of the rejection

and timely allowance of independent claims 79 and 89 and dependent claims 80-88

and 90-95.

II.   Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully

request reconsideration of this application and the timely allowance of claims 40-95.

Please grant any extensions of time required to enter this response and charge any

additional required fees to our deposit account 06-0916.

Respectfully submitted,

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